
INTELLECTUAL PROPERTY RIGHTS IN SOUND RECORDINGS, FILM & VIDEO

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Sweet & Maxwell



INTELLECTUAL PROPERTY RIGHTS IN SOUND RECORDINGS, FILM & VIDEO

PROTECTION OF PHONOGRAPHIC AND CINEMATOGRAPHIC RECORDINGS AND WORKS IN NATIONAL AND INTERNATIONAL LAW

**With Tables of Copyright and other relevant Laws
throughout the world, and appendices on performers'
rights and Computer Law affecting recordings**



by

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The origin of this book was a study commissioned by IFPI (International Federation of the Phonographic Industry) on producers' rights in audio and video recordings. The work has been expanded to cover generally the protection of sound recordings, film and video, and the relevant rights of authors, performers and producers. The views expressed are personal to the author.

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PREFACE

Part I of this book contains the Commentary, Part II Reference Materials.

Part I: Commentary

The Commentary contains an analysis of the legal protection of phonographic and cinematographic recordings and works, and consists of ten Chapters dealing with the nature of recording, recording uses and corresponding rights, legal terminology, the basis and structure of protection, national law and the International Conventions, challenges to the establishment and exercise of rights, and other related matters. The intellectual property rights in sound recordings, film and video which are considered in this book are copyright, author's right and neighbouring rights: the rights of performers are also considered, though in less detail. Matters relating to patents, trademarks, unfair competition and passing off and trade secrets are not included in the scope of the book.

Portions of the sections on the usage of the term "copyright" (paras. 5.04–15) were published in [1989] *European Intellectual Property Review* 14, and on the reproduction of computer programs in (1987–88) *Computer Law and Security Report* vol. 3, issues 2 and 3.

In order to present an overview of the material in the Commentary, the whole of Part I is summarised in Chapter 10, with references to the relevant paragraphs.

Part II: Reference Materials

In the Resumé, the Figures in the Commentary are repeated, proceeding from Figure I (Recording components) through the various analyses to Figure IX (Comprehensive protection). The reference materials continue with (a) a Table of Convention membership, (b) Convention texts, (c) Summary Lists dealing with levels and duration of protection granted in national laws, "blank tape" payment laws, rental rights and other matters, (d) a Summary Chart coding the relevant provisions of laws of countries throughout the world, (e) a Synopsis of laws giving details of the laws of the countries mentioned in the Summary Chart, (f) a list of associated and other territories, and (g) a Bibliography. A Case List, an Index of countries and territories and a General Index complete the reference section.

Computer Law

With the advent of computers, a new form of recording has become of prime importance, namely the electronic retention of computer programs, data and other material. The line between the physical aspects of sound recording, moving image recording and data storage becomes increasingly difficult to define. Semiconductor topographies (chips) are also separately protected and need to be taken into consideration. Detailed treatment of these matters is not attempted in this book but the main areas of overlap (including reproduction of computer programs and broadcasting, cabling and electronic transmission of material stored in databases) are briefly summarised in the Appendix on Computer Law affecting recordings (para. 4A.01 *et seq.*).

Status juris

Parts I and II are based on material available as at October 31, 1991, including the October 1991 issue of *Copyright*.

In December 1991, Argentina notified its ratification of the Rome Convention 1961, without declarations or reservations.

With reference to paragraph 7.26, a further Austrian case ("Direct satellite broadcasting II", OGL Vienna, June 27, 1991) is reported in the December 1991 issue of *GRUR Int.*, at p.925. In this case, it was decided that the law of the country of intended reception applied to direct broadcasting by satellite.

Readers may wish to note that the 1989 consolidated version of the Danish Law has been published in *Copyright*, December 1991 (*cf.* para. 27.80).

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February 3, 1992

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